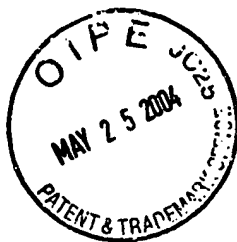


PATENT



Docket: 1232-4827

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : FUJIMOTO  
Serial No. : 10/085,540 Art Unit : 2872  
Filed : February 27, 2002 Examiner : Unassigned  
For : IMAGING APPARATUS, IMAGING OPTICAL UNIT, AND IMAGING SYSTEM

**PETITION TO EXPUNGE**  
**ERRONEOUSLY FILED DOCUMENT UNDER 37 CFR § 1.59(b)**

Mail Stop - \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests that the certified copy of Japanese Application No. 2001-057801 (the JP '801 Certified Copy), filed March 2, 2001, be expunged from the application file of the above-identified application on the basis that the JP '801 Certified Copy was erroneously and unintentionally filed therein. Applicant also requests that the JP '801 Certified Copy be placed in application file of US application Serial No. 10/087,172, filed March 1, 2002, the application to which the JP '801 Certified Copy correctly belongs. The JP '801 Certified Copy was unintentionally submitted in the instant application and failure to expunge it from the instant application and match it with the correct 10/087,172 applicant, could cause irreparable harm to Applicant. A check in the amount of \$130.00 to cover the requisite petition fee accompanies the present petition.

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## **DISCUSSION**

On February 27, 2002, the present application was filed with the United States Patent and Trademark Office (USPTO). The original application papers correctly identified and claimed foreign priority under 35 U.S.C. § 119(a) to earlier filed Japanese Application Nos. 2001-55510, filed February 28, 2001 and 2002-46420, filed February 22, 2002 (the correct JP '510 and '420 priority documents).

On June 7, 2002, a paper entitled "CLAIM TO CONVENTION PRIORITY" was filed in the instant application. This Claim to Convention Priority paper, however, erroneously identified and incorrectly included the JP '801 Certified Copy in lieu of the certified copies of the correct JP '510 and '420 priority documents. The certified copies of the correct JP '510 and '420 priority documents had been previously filed in the incorrect 10/087,172 application on June 3, 2002. A Petition to Expunge the correct JP '510 and '420 priority documents from the 10/087,172 application is being filed contemporaneously with the present petition.

Pursuant to 37 CFR § 1.59(b), as discussed in Section 724.05 of the Manual of Patent Examining Procedure, at Item III, applicant requests that the JP '801 Certified Copy (Japanese Application No. 2001-057801) be expunged from the instant application. Applicant also requests that the JP '801 Certified Copy, subsequent to being expunged, be matched with the correct 10/087,172 application. Applicant believes that the USPTO can expunge the JP '810 Certified Copy from the instant application and match it with the 10/087,172 applicant since issuance of a patent in either application is not currently eminent. Although the Issue Fee has been paid in the 10/087,172 application, no patent number or issue date has yet been accorded. The instant applicant is currently awaiting issuance of a first action on the merits.

Notwithstanding the ultimate outcome of the present Petition and the Petition to Expunge contemporaneously filed in the 10/087,172 application, the present Petition hereby serves to place notice in the official record of the instant application that the certified copies of the foreign priority documents on which foreign priority under 35 U.S.C. § 119(a) has been claimed in the instant application are located in the application file of US application Serial No. 10/087,172, filed March 1, 2002.

### **CONCLUSION**

In view of the above, Applicant hereby requests that the certified copy of Japanese Application No. 2001-057801, filed March 2, 2001, be expunged from the application file. Applicant also requests that the expunged certified copy of Japanese Application No. 2001-057801 be placed in US application Serial No. 10/087,172, the application to which the JP '801 Certified Copy correctly belongs.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any insufficient fees in regard to this paper, or refund any overpayment, to Deposit Account No. 13-4503, Order No. 1232-4827.

Dated: May 25, 2004

Respectfully submitted,  
MORGAN & FINNEGAN LLP

By: 

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